IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 16003 of 1995

Between:

E.Esnagari shaym s/o.E.Ramalingam
Saraswathi Pathasala, Nallakunta, Hyderabad R/o.H.No.14-11- 600/1, Ghode- ki-Khabar
Hyderabad

..... PETITIONER

AND

1 The Dist. Education Officer,
Hyderabad, Hyderabad District.
2 The Director of School Education
Andhra Pradesh, Hyderabad
3 The Secretary-cum-Correspondent Vivekavardhani Primary & Upper Primary Schools, Dharaveer Waman Marg Hyderabad - 500 196

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other writ or order directing the respondents to regularise the appointment of the petitioner in the post of attender in the Saraswathi Pathasala, Nalla Kunta Hyderabad with effect from 8/2/1993 with back wages and issue further order or orders as this Hon'ble court may deem fit and proper in the interest of justice.

Counsel for the Petitioner: MR.U.S.R.MURTHY

Counsel for the Respondent Nos.1 and 2: GP FOR SCHOOL EDUCATION

Counsel for the Respondent No.3: None appeared

The Court made the following :

ORDER:

The present writ petition is filed by the petitioner seeking a direction in the nature of writ of mandamus directing the respondents to regularize his services in the post of

Attender in the 3rd respondent-school with effect from 08.02.1993.

According to the petitioner, his father worked in the said school as an attender from 1963 to 1993 and on his death in the year 1993, the management has appointed him as an attender on compassionate grounds. Subsequently, the 3rd respondent-management addressed a letter on 02.06.1994 to the first respondent seeking regularization of the service of the petitioner, but he refused to do so on the ground that there is no post of attender in the aided school. Aggrieved by the same, the present writ petition is filed by the petitioner.

Heard both the Counsel.

From the record, it is an admitted fact that the petitioner's father was appointed in the year 1963 as an attender and after his death in the year 1993, the petitioner was appointed as an attender on compassionate grounds and since then, he has been working as an attender with effect from 08.02.1993 in the 3rd respondent-school. Subsequent to the petitioner's appointment, the 3rd respondent-management addressed letter to the first respondent seeking regularization of the services of the petitioner.

At this stage, both the Counsel have submitted across the Bar that though the grant in aid was released with effect from 14.03.1996, the 1st respondent has rejected the case of the petitioner for regularization of his services.

While admitting the writ petition, this Court has issued an interim direction to the 1st respondent to release the grant in aid for the post of attender in the 3rd respondent school on 24.7.1995. Pursuant to the same, the grant in aid was released by the 1st respondent with effect from 14.03.1996.

In this view of the matter, the order dated 07.03.1995 issued by the first respondent holding that there was no provision for the appointment of an attender in the 3rd respondent-school, cannot be accepted. Even assuming that it is a fact as per the order of the 1st respondent, it is not known as to how the father of the petitioner has been continued in the post of attender till his death in the year 1993.

No doubt, it is a compassionate appointment. But, however, the third respondent ought to have taken prior sanction from the first respondent before

appointing the petitioner herein. In the instant case, admittedly the petitioner was appointed with effect from 08.02.1993 on compassionate grounds and subsequently, by proceedings dated 02.06.1994, 3rd respondent sought for regularization of the services of the petitioner.

In the facts and circumstances of the case and considering the appointment of the petitioner on compassionate grounds and in view of rendering of services from the year 1993 and in view of the fact that the first respondent released grant in aid pursuant to the interim orders of this Court, I am of the considered opinion that the post of the petitioner shall be treated as an aided post for all practical purposes with effect from 14.03.1996.

Subject to the above observations, this Writ Petition is disposed of.

20th January, 2005

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Copy to:

1. The District Education Officer,

Hyderabad, Hyerabad District.

2. The Director of School Education,

Andhra Prudesh, Hyderabad.

3. The Secretary-cum-Correspondent,

Vivekavardhani Primary & Upper Primary Schools,

Dharaveer Waman Marg,

Hyderabad-500 196.

4. Two C.Cs. to the Government Pleader for School Education, High Court Buildings,High Court of A.P., Hyderabad. (O.U.T.)

5. Two C.D.Copies.